

HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, Colorado 80527-2400

PATENT APPLICATION

ATTORNEY DOCKET NO. 10005002-1

IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Curtis C. Ballard

Confirmation No.: 2123

Application No.: 10/007,116

Examiner: D. E. England

Filing Date: November 7, 2001

Group Art Unit: 2143

Title: SYSTEM FOR AND METHOD OF AUTOMATED DEVICE DATA COLLECTION

Mail Stop Appeal Brief - Patents  
Commissioner For Patents  
PO Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on November 21, 2006.

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

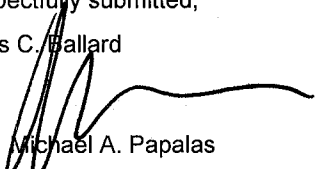
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Date of Transmission: January 19, 2007

Respectfully submitted,

Curtis C. Ballard

By:

  
Michael A. Papalas

Attorney/Agent for Applicant(s)

Reg No. : 40,381

Date : January 19, 2007

Telephone : (214) 855-8186

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Docket No.: 10005002-1  
(PATENT)

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In re Patent Application of:  
Curtis C. Ballard

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Examiner: D. E. England

**REPLY BRIEF**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
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Dear Sir:

This reply brief, filed pursuant to 37 C.F.R. § 41.41, is in response to the Examiner's Response, mailed in this case on November 21, 2006 (hereinafter "Second Answer"). Should the Primary Examiner not find the comments contained herein persuasive, acknowledgement of receipt and entry of this Reply Brief is requested.

The fees required under § 1.17(c) and any required petition for extension of time for filing this brief and fees therefor, if any, are dealt with in the accompanying TRANSMITTAL OF REPLY BRIEF.

This Brief contains these items under the following headings:

- I. Reply to Examiner's Second Answer
  - A. Procedural Issues
  - B. Addressing the Withdrawal of the Rejection Under 35 U.S.C. §112
  - C. Responses to Rejections of Record

- II. Conclusion

The final page of this Brief bears the Attorney's signature.

## **I. REPLY TO EXAMINER'S ANSWER**

### **A. Procedural Issues**

The Examiner again erroneously claims that an amendment to the pending claims was filed on October 11, 2005. *See* Examiner's Second Answer at 2. While the Appellant assumes that the inclusion of this contention is an artifact arising from the Examiner's resubmission of the First Answer, the Appellant wishes to again respectfully point out that the Response to Final Office Action filed on October 11, 2005 (hereinafter "Response to Final") contained NO AMENDMENTS to the claims. The only amendments to the pending claims made during prosecution were contained in the Appellant's Response to Office Action filed on April 26, 2005 (hereinafter "First Response"). If the Examiner believes that there were amendments other than those contained in the First Response, the Appellant respectfully asks the Examiner to detail what those amendments were and when they were proposed.

In addition, the Examiner's Second Answer again dedicates a significant portion to restating the Examiner's objections to the drawings. *See* Examiner's Second Answer pages 4-5. The Appellant assumes that this too is an artifact of the Examiner's resubmission, rather than a reassertion of his objections. However, the Appellant again respectfully points out that the appeals process is not the proper venue for these arguments. If, however, the Board decides to take up this issue, the Appellant respectfully directs the Board's attention to the Appellant's First Response and subsequent Response to Final. The Appellant respectfully

submits that the Examiner's objections were completely overcome by the amendments and arguments contained therein.

### **B. Addressing the Withdrawal of the Rejection Under 35 U.S.C. § 112**

In the Office Communication dated September 7, 2006, the Examiner withdrew the rejection under 35 U.S.C. § 112. The Appellant must assume that its inclusion in the Examiner's Second Answer is, again, an artifact of the resubmission the Original Answer rather than a reassertion of the rejection. Thus, the remaining arguments contained in this Reply Brief are drafted under the assumption that this rejection remains withdrawn. If, however, the Examiner has reasserted this rejection, the Applicant respectfully directs the Examiner and the Board to the arguments contained in the Appellant's original Reply.

### **C. Response to the Rejections of Record**

The Examiner's Second Answer contains no new arguments, and, thus, appears to be a mere resubmission of the Answer originally filed. However, the Appellant respectfully points out that these arguments are fatally flawed, particularly in light of the Examiner's withdrawal the rejections under 35 U.S.C. § 112. In both Answers, the Examiner identifies the "computer system components" of Conrad et al., U.S. Patent No. 6,892,236 (hereinafter *Conrad*), as the feature being mapped to the "networked device" of the rejected claims. The Appellant points out, however, that this mapping relied on the Examiner's 35 U.S.C. § 112 argument. Since this argument no longer exists, this mapping fails on its face. The "computer system components" of *Conrad* do not perform a "dedicated stand-alone function," and rejection of record contains even an assertion that they do.

Therefore, the Examiner's 35 U.S.C. § 102(e) rejection of Claims 2, 3, 5, 6, and 22 is insufficient on its face, and the Applicant respectfully asks this Board to overturn it.

The Examiner's remaining rejections remain unchanged from the Examiner's Original Answer, and the Appellant respectfully directs the Board to the arguments contained in its

Original Reply. The Examiner's 35 U.S.C. § 103(a) rejections are also insufficient on their face, and the Appellant respectfully asks this Board to overturn them as well.

## **II. CONCLUSION**

Based on the foregoing remarks and arguments, Appellant respectfully submits that Claims 1-20 are patentable. Reversal of the rejections is courteously requested.

Respectfully submitted,

By: 

Michael A. Papalas

Attorney/Agent for Applicant(s)

Reg. No. 40,381

Date: January 19, 2007

Telephone No. (214) 855-8186